

The Honorable Richard A. Jones

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff

v.

ROMAN SELEZNEV,

Defendant.

NO. CR11-077RAJ

UNCLASSIFIED PROTECTIVE ORDER
PURSUANT TO SECTION 4 OF
CLASSIFIED INFORMATION
PROCEDURES ACT AND FEDERAL
RULE OF CRIMINAL PROCEDURE
16(d)(1)

This matter has come before the Court on the Government's Classified *In Camera*,
Ex Parte Motion for a Protective Order Pursuant to CIPA Section 4 and Fed. R. Crim. P.
16(d)(1) ("Government's Motion for a Protective Order"). By its motion, the government
requested that the Court, pursuant to CIPA § 4, Fed. R. Crim. P. 16(d)(1), and the
applicable law: (1) conduct an *in camera*, *ex parte* review of the government's
submission; (2) authorize the government to withhold specified classified information
from discovery; and (3) order that the entire text of the government's motion and
accompanying exhibits shall not be disclosed to the defense and shall be sealed and
preserved in the records of the Court to be made available for any future review of these
proceedings.

1 The Court, having carefully considered the government's motion and
2 memorandum of law, and supporting materials filed therewith, GRANTS the
3 Government's Motion for a Protective Order in its entirety.

4 The Court finds that the Government's Motion for a Protective Order was properly
5 filed *in camera*, *ex parte* for this Court's review, pursuant to CIPA § 4 and Fed. R. Crim.
6 P. 16(d)(1). The Court has conducted an *in camera*, *ex parte* review.

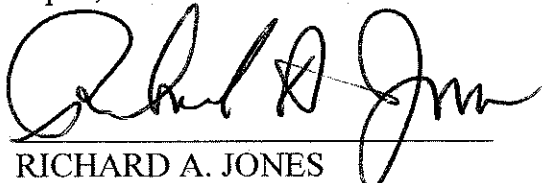
7 On the basis of the Court's independent review of the information and the
8 arguments set forth in the Government's Motion for a Protective Order and the classified
9 material in support of the motion, the Court finds that the classified information
10 referenced in the government's motion and memorandum of law implicates the
11 government's classified information privilege because the information is properly
12 classified and its disclosure could cause serious damage to the national security of the
13 United States. Furthermore, the Court finds that none of the classified information is
14 exculpatory, *see Brady v. Maryland*, 373 U.S. 83 (1963), and that the information is not
15 impeachment material. *See Giglio v. United States*, 405 U.S. 150 (1972).

16 Additionally, the Court finds that the "relevant and helpful" standard articulated in
17 *United States v. Rovario*, 353 U.S. 53 (1957), *United States v. Yunis*, 867 F.2d 617 (D.C.
18 Cir. 1989), and *United States v. Klimavicius-Viloria*, 144 F.3d 1249, 1261 (9th Cir. 1998),
19 is the appropriate standard by which to analyze the discoverability of classified
20 information where, as here, the government has properly invoked the classified
21 information privilege. To this end, the Court finds that in applying the
22 *Rovario/Yunis/Klimavicius-Viloria* standard, none of the classified information
23 referenced in the government's motion is relevant and helpful to the defense. This Order
24 also applies to the government's discovery obligations under Federal Rule of Criminal
25 Procedure 16, and *Brady v. Maryland*, *Giglio v. United States* and their progeny with
26 regard to the information described herein.

27 Accordingly, **IT IS ORDERED** that the government is authorized to withhold the
28 specified classified information outlined above from discovery to the defense.

1 **IT IS FURTHER ORDERED**, that the government's motion, memorandum of
2 law, and the accompanying materials shall not be disclosed to the defense, and shall be
3 sealed and maintained in a facility appropriate for the storage of such classified
4 information by the Classified Information Security Officer as the designee of the Clerk of
5 Court, in accordance with established security procedures, for any future review, until
6 further order of this Court.

7 IT IS SO ORDERED, this 5th day of April, 2016.

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10 
11 RICHARD A. JONES
12 United States District Judge

13 Presented by:

14 /s/ Norman M. Barbosa

15 NORMAN M. BARBOSA
16 Assistant United States Attorney

17
18 /s/ Seth Wilkinson

19 Assistant United States Attorney

20
21
22 /s/ Harold Chun

23 Trial Attorney
24 United States Department of Justice